

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SIX**

CAMDEN-CLARK MEMORIAL HOSPITAL
CORPORATION¹

Employer

and

UNITED STEELWORKERS OF AMERICA,
AFL-CIO, CLC

Cases 6-RC-11952 and
6-RC-11953

Petitioner

DECISION AND DIRECTION OF ELECTIONS

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Gerald McKinney, a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to the undersigned Regional Director.²

Upon the entire record³ in this case, the Regional Director finds:

¹ The name of the Employer appears as amended at the hearing.

² Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by June 14, 2001.

³ The Employer filed a timely brief in this matter. The briefs in this matter were due in the Regional Office by the close of business on Friday, April 13, 2001. The Petitioner filed its brief in this matter on Monday, April 16, 2001. On April 16, 2001, the Employer filed Employer's Motion To Strike Petitioner's Brief. In its Motion, the Employer argues that the record from the hearing states that the briefs were due on April 13, 2001; that neither party made a request for an extension of time to file the briefs; and that the Employer would be prejudiced if the Petitioner's untimely brief were accepted, inasmuch as the Petitioner would

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

In Case 6-RC-11952, as amended at hearing, the Petitioner seeks to represent a unit of all full-time and regular part-time registered nurses employed by the Employer at its 705 Garfield Avenue and 800 Garfield Avenue, Parkersburg, West Virginia locations; excluding all other professional employees; case management employees; care management employees; utilization review employees; technical employees; all non-professional employees; office clerical employees including those employed in administration, business services, computer operations, planning and development, public relations, personnel, accounting, management engineering, internal audit, pastoral care and education, communications, admitting, medical

have had the advantage of reviewing the Employer's brief before filing its own brief. On April 17, 2001, the Petitioner filed a Motion To File Brief Out Of Time And In Opposition To Employer's Motion To Strike. In this Motion, the Petitioner asserts that, when the hearing in this matter concluded, the Petitioner was under the impression that the Regional Office was to be closed on April 13, 2001, due to the Good Friday holiday, and that the briefs would then be due on the next working day, April 16, 2001. Petitioner further asserts that, as of April 17, 2001, Petitioner had not yet received a copy of the Employer's brief. Thus, the Petitioner argues that there was no prejudice to the Employer by the late filing of the brief by the Petitioner.

In considering these Motions, I note that Petitioner's brief was filed only one business day late, that there appears to have been a misunderstanding about the due date by the Petitioner, that there was no prejudice to the Employer since the Petitioner had not seen the Employer's brief before filing its own brief, and that there was no delay caused by the Petitioner filing its brief one day late. Accordingly, I shall deny the Employer's Motion To Strike Petitioner's Brief and shall grant the Petitioner's Motion To File Brief Out Of Time And In Opposition To Employer's Motion To Strike. Thus, I have duly considered the briefs of both the Employer and the Petitioner in this matter.

education, medical records department, purchasing department, volunteer and auxiliary departments; temporary employees; confidential employees; guards and supervisors as defined in the Act (herein “RN unit”).

The parties are in agreement that a unit comprised of all registered nurses is a unit appropriate for collective-bargaining purposes within the Board’s Final Rule on Collective-Bargaining Units in the Health Care Industry (herein “the Rule”).⁴ However, the Employer, contrary to the Petitioner, contends that the scope of the above-described unit is too narrow. Specifically, the Employer argues that the unit must include approximately 20 registered nurses (herein “RNs”) who work in the Employer’s home health care department (herein “HHC”), and are based at five locations in and near Parkersburg. Additionally, with regard to the composition of the unit, the Employer asserts that the unit must also include approximately 20 RNs who are employed as case managers, clinical specialists and patient educators in the care management department within the main hospital building. Finally, with regard to eligibility, the Employer would include approximately 40 RNs who are assigned duties as charge nurses on a regular basis. The Petitioner seeks to exclude the RNs who are often assigned to act as charge nurses, asserting that these RNs are supervisors within the meaning of the Act. There are approximately 327 RNs in the petitioned-for RN unit.

In Case 6-RC-11953, as amended at the hearing, the Petitioner seeks to represent a combined unit of all full-time and regular part-time technical employees, including licensed practical nurses, radiology technologists, certified respiratory therapy technicians, operating room technicians and laboratory employees; all skilled maintenance employees; and all other nonprofessional employees including all clerical employees except business office clerical employees, all service and maintenance employees including nursing assistants, dietary

⁴ The Rule is set forth at 29 CFR Part 103, 54 Federal Register No. 76, pp. 16347 – 16348, 284 NLRB 1579, 1596–1597, approved by the United States Supreme Court in American Hospital Association v. NLRB, 499 U.S. 606 (1991).

employees, housekeeping employees, laundry employees, ambulance service employees, medical services clerk/clerks/unit clerks, supply clerks/storage clerks, and orderlies/transporters employed by the Employer at its 705 Garfield Avenue, 800 Garfield Avenue, 801 Garfield Avenue and 806 Murdock Avenue, Parkersburg, West Virginia locations; excluding all RNs, other professional employees and business office clerical employees including those employed in administration, business services, computer operations, planning and development, public relations, personnel, accounting, engineering, internal audit, pastoral care and education, communications, admitting, medical education, medical records department, registered respiratory therapists, purchasing department, volunteer and auxiliary departments, temporary employees, confidential employees, guards and supervisors as defined in the Act (herein “combined unit”).

The Employer, contrary to the Petitioner, contends that the above-described combined unit is inappropriate for collective-bargaining purposes both in scope and in composition. With regard to the scope of the unit, the Employer asserts that the unit must also include approximately 26 licensed practical nurses (herein “LPNs”), 13 nursing aides, seven nursing clerks, one physical therapy assistant, one volunteer service coordinator and one secretary who work in the Employer’s HHC department and are based in the HHC department’s various locations in and around the Parkersburg area. In addition, the Employer asserts that two physical therapy assistants, one physical therapy aide and one secretary who work at the Employer’s outpatient physical therapy (herein “PT”) location approximately four miles from the main hospital should be included in the petitioned-for unit, as well as one community health and education paramedic and one secretary located in the guest relations department in the “marketing” building on Birch Street, approximately five miles from the main hospital buildings.

With regard to the composition of the unit, the Employer, contrary to the Petitioner, would include the following employees in the following departments: medical records department: 26 medical records transcriptionists, 11 health information analysts, seven coding

analysts, four scanning technicians, one patient information coordinator and one secretary; care management services department: one trauma registrar, one care management analyst, one certification trainer and one secretary; central registration department: seven patient registrar/schedulers; material management department: three buyers; information systems department: six telecommunications operators, two telecommunications technicians, five application analysts, seven computer operations technicians, one PC network analyst, two telecommunications specialists and one secretary. The Petitioner asserts that all of the above-described classifications should be excluded inasmuch as these employees do not share a community of interest with the employees in the combined unit. Additionally, the Employer would include in the combined unit ten registered respiratory therapists in the cardiopulmonary department who the Petitioner asserts should be excluded because they are professional employees, and three assistant supervisors in the laboratory department who the Petitioner asserts should be excluded because they are supervisors within the meaning of the Act. There are approximately 650 employees in the combined unit sought by the Petitioner. There is no history of collective bargaining for any of the employees in either of the two petitioned-for units in this matter.

The Employer, a West Virginia corporation, with offices and places of business in and around Parkersburg, West Virginia, is engaged in the operation of an acute care hospital which provides in-patient and out-patient medical and professional services for the public.⁵ The main hospital building, located at 800 Garfield Avenue (herein “main hospital”), is where most of the employees and services were originally located. Presently, about 250 beds are being used in the main hospital, which has a capacity of about 343 beds. As the operation of the hospital outgrew this original facility, other buildings were built or acquired by the Employer. The administrative support building, with the same address, is located about 40 yards away from the

⁵ The parties have stipulated, and I find, that the Employer is a health care institution within the meaning of the Act.

main hospital building. The laundry building is at 801 Garfield Avenue, about 50 yards away from the main hospital building. The medical office building, at 705 Garfield Avenue, is across the street, and is connected to the main hospital by an enclosed pedestrian bridge over the street. The ambulance building is located at 806 Murdock Avenue, about 25 yards from the main hospital. The two petitions herein limit the scope of the respective units to employees who work in two (RN unit) or five (combined unit) of these buildings buildings.

In addition to the above-described locations, the Employer owns or leases facilities at several other locations.⁶ The Newberry Building, at 1023 Garfield Avenue, is about 300 yards from the main hospital, and is where many of the employees in the information systems department are located. The marketing building is located about five miles from the main hospital, at 2801 Birch Street, and is where the community health and education paramedic and the secretary from the guest relations department are located. The out-patient PT patients are seen at the Dudley Building, located about four miles away from the main hospital, at 2041 Dudley Avenue.⁷ The HHC Department has its primary operations in Parkersburg, at 808 Division Street, located about 3.5 miles from the main hospital. About 33 of the HHC employees, including approximately 15 RNs, work out of this location. There are also 3 to 4 HHC employees who work out of each of the following locations: St. Mary's, West Virginia, about 20 miles from the main hospital; Elizabeth, West Virginia, about 20 miles from the main hospital; Grantsville, West Virginia, about 30 miles from the main hospital; and Harrisville, West Virginia, about 30 miles from the main hospital. The Employer leases all of the facilities used by the HHC Department.

⁶ The Employer leases a building at 2911 Emerson Avenue where the employees who work in financial services are located. However, none of the employees at that location are involved in the instant matter.

⁷ In addition to the Dudley Avenue facility, the PT department is also located within the main hospital, where the in-patient PT services are provided.

As an initial analysis, it is necessary to determine the parameters of the acute care hospital operation at issue herein. It is common today for acute care hospitals, particularly those in older buildings, to move some of their employees out of the original building into adjacent or nearby locations due to lack of space, as was done with this Employer's operation. While some departments are located outside of the original hospital building, they may still function as a part of the acute care hospital operation. In this case, the evidence is clear that the original hospital, at 800 Garfield Avenue, outgrew its facility, and the Employer found it necessary to expand to nearby locations to provide all of the services needed at an acute care hospital. Thus, over the last several years, the Employer moved many of the departments which make up and support the acute care hospital to other buildings nearby because of a need for more space.⁸ The departments which are located in these buildings provide medical offices, out-patient physical therapy, laundry, ambulances, telecommunications support, and so forth. Many of these employees who work in several off-site locations service the Employer's acute care hospital operation and are highly integrated with it. Accordingly, I find that the Employer herein has a single integrated campus operation, with several locations in buildings off the site of the original hospital building.

In the petitions at issue herein, the Petitioner requests to include certain employees who are located in two buildings at 800 Garfield Avenue, and buildings at 705 Garfield Avenue, 801 Garfield Avenue, and 806 Murdock Avenue. The Employer, contrary to the Petitioner, contends that employees from several other off-site locations should also be included in the proposed units, asserting that they are a part of the Employer's campus of acute care hospital operations, including employees located at 2041 Dudley Avenue, 1023 Garfield Avenue, 2801 Birch Street and at its home health care department offices, which are located in five facilities in and around the Parkersburg, West Virginia area. For the reasons set forth herein, I find that the buildings

⁸ Some of the buildings were built by the Employer for this purpose and others were acquired from other property owners.

located at 705 Garfield Avenue, 800 Garfield Avenue (two buildings with the same street address), 801 Garfield Avenue, 1023 Garfield Avenue, 806 Murdock Avenue and 2041 Dudley Avenue, are a single integrated campus with highly integrated functions, together comprising the Employer's acute care hospital operation. The Board has found that more than one building of an acute care hospital operation can be considered a single operation. See, e.g., Southern Maryland Hospital Center, Inc., 274 NLRB 1470 (1985); Samaritan Health Services, Inc., 238 NLRB 629 (1978). Accordingly, for purposes of my analysis of the proposed units herein, I shall consider the above-described seven buildings as the campus comprising the Employer's acute care hospital operation.⁹

A Board of Directors oversees the Employer's operations. Thomas Corder, the Chief Executive Officer and President, reports directly to the Board. Reporting to Corder are Todd Kruger, General Legal Counsel; Michael King, Chief Operating Officer; and Justin Rushin, Chief Financial Officer. As General Legal Counsel, Kruger oversees the risk management and the compliance departments. CFO Rushin oversees the business, accounting, information systems, medical records, material management and fitness center departments. COO King has three management individuals who report to him: a vice president for professional services, a director of human resources and a vice president for clinical services. These three managers are each responsible for several departments in the Employer's operations. Thus, the vice president for professional services is responsible for the laboratory, radiology, cancer management, environmental services, engineering, physical therapy, cardiopulmonary services, trauma and emergency services, nutrition services and medical staff services departments. In addition, King oversees the marketing/public affairs and the foundation departments. The

⁹ The buildings at 2911 Emerson Avenue and 2801 Birch Street house the financial and guest relations departments, and I find that these buildings are not a part of the campus of the acute care hospital operation herein. Likewise, I find that the home health care facilities located at 808 Division Street and in four communities outside of Parkersburg are not part of the campus of the acute care hospital operation herein.

director of human resources oversees the personnel, guest relations and volunteer services, payroll and employee health departments. The vice president for clinical services, who is also the chief of nursing services, oversees the nursing service, pharmacy, care management, housecalls/home health/hospice, and the surgical and cardiac diagnostic services departments.

As noted, while the parties are in agreement that a unit of RNs and a separate unit of nonprofessional employees, technical employees and skilled maintenance employees are appropriate units within the Rule¹⁰, the parties are in disagreement as to the scope and composition of the units, as well as the placement of several classifications. I will discuss the issues raised for each unit individually herein.

REGISTERED NURSES UNIT

Home Health Care Department RNs

As noted previously, the Petitioner, contrary to the Employer, would exclude approximately 20 RNs who work in the HHC department on the grounds that these RNs do not possess a community of interest with the petitioned-for RNs.

In 1997, the Employer created a home health care department, which provides medical services to patients at their own homes.¹¹ As noted, this department is encompassed at various locations in the Parkersburg and immediately surrounding geographical area. The HHC department is overseen by its director, Melinda Mathews, whose office is at the HHC Parkersburg location on Division Street, about 3.5 miles from the main hospital. There are about 15 RNs in this department who work at this location. One RN is assigned to work at the

¹⁰ The Rule provides that combinations of units sought by a labor organization may be appropriate, as is proposed herein by the Petitioner.

¹¹ This department was acquired from the Mid-Ohio Valley Regional Health Department.

main hospital, where she acts as a liaison between the in-patient care and the services provided by HHC.¹² The majority of the HHC RNs, about 15, work out of the Division Street office. Two RNs work out of the location in St. Mary's, West Virginia; one RN works out of the location in Elizabeth, West Virginia; and two RNs work at the location in Harrisville, West Virginia. The other HHC office, in Grantsville, West Virginia, does not have any RN on the staff.

The HHC staff¹³ visit patients in their homes following a stay in the hospital.¹⁴ Most of the appointments are scheduled between about 7 a.m. and 6 p.m. on weekdays, although occasionally, appointments are scheduled on the weekend. HHC staff use their own vehicles to reach the patients' homes. Although they attend the same orientation classes, Christmas party, summer picnic, and continuing education classes as employees at the main hospital, they have little if any contact with the main hospital employees in their routine work. They receive six to eight weeks of training before beginning to work in the HHC department. While a physician issues the orders for home visits, there are no physicians in the HHC department. Laboratory specimens are normally picked up by courier; very occasionally an HHC staff member will bring the specimen to the hospital.

The HHC staff keep track of their hours on the computer. These records are monitored at each separate location. The various job classifications working in the HHC department are paid in the same wage scale as the employees in their classification assigned to work in the main hospital. The schedule is set up by the clinical manager for the HHC department.

¹² Jane Bussey, the HHC RN who is stationed in the hospital, also provides liaison services at St. Joseph's Hospital, a facility unrelated to the Employer herein. Bussey spends some of her time at St. Joseph's Hospital arranging home visiting services for the patients there.

¹³ Although the issue herein relates to the scope of the RN unit, the issue is identical for the scope of the combined unit relating to the HHC employees. Thus, I will address the terms and conditions of employment for all of the HHC staff in this section of my decision.

¹⁴ The parties agree that the RNs, as well as the other HHC staff, i.e., nursing clerks, nursing aides, PT assistant, LPNs, secretary, and so forth, would appropriately be included in the units but for the location of their department. Thus, I need not go into detail regarding the type of job duties that they perform.

Evaluations are done on the HHC employees by the supervisors located at each facility. The HHC staff are not required to wear any type of uniform. Discipline is handled by the supervisors and HHC department director Mathews. Thus, any discipline to be issued is initiated, recommended and investigated by the management personnel within the HHC department. Mathews then consults with the human resources department to determine the proper action to be taken.

Job openings for the Employer's entire operation are posted at the HHC facilities. When an individual applies for a position at one of the HHC facilities, the Employer's human resources department screens the applicant to make sure that the individual possesses the required education, licensing and so forth. The applicant then has an interview in the HHC department, and the decision whether or not to hire the individual is made by Mathews.

There have been some permanent and temporary transfers between the main hospital and the HHC department since HHC was created in 1997. In this regard, the record reveals that approximately twelve RNs have transferred into HHC from the main hospital¹⁵, and three have transferred from HHC to the main hospital during this time period. With regard to temporary transfers, about ten HHC RNs and some other staff have picked up additional work by taking shifts in the main hospital on an occasional basis. While the numbers are not exact, it appears that a few HHC RNs pick up a shift once every few weeks, while other RNs do so more sporadically. Likewise, the HHC LPNs only work extra shifts at the main hospital on a very limited basis. Some of the nursing clerks also occasionally fill in at the hospital. There were only two occasions where an RN from the main hospital filled in for an HHC RN in the last year.

¹⁵ According to Mathews, because of declining census, only about seven of the RNs who transferred to HHC were replaced at the main hospital.

As previously indicated, the Employer, contrary to the Petitioner, asserts that in accordance with the Rule, the petitioned-for RNs must include all RNs employed by it, including the approximately 20 RNs employed in its HHC department.

In the rulemaking proceeding, the Board has set out certain rules regarding appropriate units in acute care hospitals. See, 284 NLRB 1515. Absent extraordinary circumstances, an all RN unit is appropriate in an acute care hospital. 284 NLRB at 1596-1597. The Employer maintains that HHC should be viewed as part of its acute care hospital operation located in Parkersburg, and, as such, the Rule thus compels the finding of a hospital-wide RN unit including the HHC RNs. The Petitioner, however, urges that the HHC operation is located at non-acute health care facilities other than the Employer's acute care hospital complex and thus, it cannot be concluded as a matter of law that the Rule compels the inclusion of the HHC RNs in the unit. Rather, the Petitioner asserts that the RN unit it seeks to represent is limited to those RNs at the Employer's acute care hospital operation which, as I have found, is located in a multi-location campus. Accordingly, the Petitioner avers that the petitioned-for unit is within the Rule. For the reasons set forth below, I find, contrary to the assertions of the Employer, that the proper application of the Rule does not require the inclusion of the HHC RNs in the unit.

In this regard, I first note that the Rule addresses issues of composition at single facility acute care hospital operations and does not address the issue of scope. Thus, contrary to the suggestion of the Employer, the Rule does not require the inclusion of all classifications of employees encompassed by a unit delineated in the Rule on a hospital-wide basis even if the health care employer operates an integrated health care organization with each of its entities part of that integrated organization. This is particularly true where the health care employer's organization encompasses both acute care hospital operations and non-acute care health operations in separate facilities. Thus, for example, in Visiting Nurses Association of Central Illinois, 324 NLRB 55 (1997), the Board found appropriate a unit limited to RNs employed in an employer's home health care and hospice operations, which were operated from a facility

separate from that employer's acute care hospital operation. In reaching its conclusion, the Board noted that the employer's health care services were distinct from the services provided by the employer's acute care hospital and that there was only a limited amount of interchange and staff contact between the two groups of RNs.¹⁶ While Visiting Nurses Association of Central Illinois, supra, dealt with the issue of a separate unit of RNs in the home health care and hospice operations, the same principle can be applied in the reverse situation herein.

In the instant case, the record affirmatively establishes, as described above, that the Employer's Parkersburg acute care hospital complex (also referred to as the main hospital) is separate from the HHC operations, which are housed at locations away from the acute care hospital complex. The record further establishes that the Employer's home health care operations are not acute care hospital operations. See, Visiting Nurses Association of Central Illinois, supra.

In determining units appropriate for the purposes of collective bargaining, the Act only require that the unit be "appropriate" so as to insure employees the fullest freedom in exercising the rights guaranteed by the Act. There is no requirement in the statute that the unit be the most appropriate or the ultimate unit or the only appropriate unit. Omni International Hotel, 283 NLRB 475 (1987); Morand Brothers Beverage Company, et al., 91 NLRB 409, 418 (1950), enf'd. 190 F.2d 576 (7th Cir. 1951). Thus, a petitioner is not required to seek the most comprehensive grouping of employees. Visiting Nurses Association of Central Illinois, supra. In addition, the unit sought by the Petitioner is always a relevant consideration, and the Board first considers the appropriateness of the unit sought by the Petitioner. Overnite Transportation Company, 322 NLRB 723 (1996).

¹⁶ Since the petition in Visiting Nurses Association of Central Illinois, supra, was for a unit of RNs at a non-acute care health facility, the test for the appropriateness of such a unit was not by virtue of the application of the Rule, but rather by the "pragmatic or empirical community of interest test" set forth in Park Manor Care Center, Inc., 305 NLRB 872, 874-875 (1991).

In the instant case, I note that HHC department director Mathews, along with supervisors at each location, control the day-to-day working conditions of the HHC RNs. The fact that Mathews and the nursing management at the main hospital ultimately report to the same upper management does not alter the lack of common day-to-day supervision. See, Passavant Retirement and Health Center, Inc., 313 NLRB 1216, 1218-1219 (1994). Further, unlike the RNs in the main hospital, the HHC RNs do not work directly with physicians and, although they have the same educational background and license as the RNs in the main hospital, the HHC RNs receive six to eight weeks of training. There is no evidence that the RNs in the main hospital receive any of the HHC training. The HHC employees work different schedules than the employees in the nursing units at the main hospital. Finally, I note that the majority of RNs in the hospital have no contact with the HHC nurses. While some RNs occasionally fill in on extra shifts in the hospital, and, less frequently vice versa, this is not done on a regular basis.

With respect to Jane Bussey, who is assigned from the HHC department to work in the main hospital, I note that she is considered to be an HHC employee and there is no evidence that she is paid out of the nursing department budget. Moreover, Bussey is supervised by Mathews. Rather, it appears clear that Bussey's job duties are different from those of the RNs in the nursing department, and the interaction with employees in the main hospital while performing her duties as a liaison for HHC is insufficient to warrant a finding either that she or the HHC department RNs must be included in the petitioned-for unit.

Thus, based on the above and the record as a whole, I find that the Employer has failed to prove that a unit of RNs employed at the Parkersburg acute care hospital complex alone is not appropriate. I find that the HHC department, located at one facility in Parkersburg and four facilities in surrounding communities, perform a function separate and distinct from the acute care hospital operation. Moreover, because there is little contact and interchange between employees, and separate locations, working conditions and supervision, I find that there is little community of interest between the HHC department employees and the employees at the acute

care hospital campus. Accordingly, I shall exclude the RNs in the HHC department from the RN unit.¹⁷

Care Management Department RNs

As described previously, the Employer contends that the composition of the petitioned-for unit should include RNs who are case managers, clinical specialists and patient educators in the care management department. The Petitioner excludes these classifications of RNs from the petitioned-for unit, asserting that they do not share a community of interest with the RNs in the nursing department.¹⁸

The care management department is overseen by Director of Care Management Services Cindy Carpenter. As does the Director of Nursing, Carpenter reports to the Vice President for Clinical Services/Chief Nursing Officer, who in turn reports to COO Michael King.¹⁹ The care management department is responsible for patient education, staff education, utilization review, case management and performance improvement for the hospital. This department employs ten RNs working as case managers, nine RNs working as clinical specialists and two RNs working as patient educators.

As an initial analysis, when issuing the Rule, the Board found that the eight units enumerated therein shall be the only appropriate units in an acute care hospital absent

¹⁷ In its brief, the Employer cites The Long Island College Hospital, 256 NLRB 202 (1981), in support of its contention that the HHC RNs must be included in the petitioned-for unit. In that case, however, the Petitioner had requested the inclusion of RNs in satellite locations in the unit with RNs working in a hospital. The issue in that case related to whether or not a unit of only RNs was appropriate, or whether other professionals should also be included in the unit. Thus, I find that case unpersuasive in the instant matter. Rather, I note that the issue in the instant matter is very similar to that in Visiting Nurses Association of Central Illinois, supra, wherein the Board affirmed the finding of the Regional Director that RNs working at the visiting nurses association therein could constitute a separate unit from the RNs in an affiliated hospital.

¹⁸ In its brief, the Petitioner does not address its position that the care management RNs should be excluded from the unit.

¹⁹ At present, Susan McCauley is the Acting Vice President for Clinical Services in addition to her duties as the Director of Nursing.

“extraordinary circumstances”, which are to be narrowly defined. 284 NLRB at 1576. An assertion that there is a lack of community of interest between employees in one of the units must rise to the level of extraordinary circumstances in order to deviate from the enumerated appropriate units. The arguments raised in the course of the rulemaking proceedings, even where such situations may be highly unusual, normally do not constitute extraordinary circumstances. Moreover, the party urging unusual circumstances bears a heavy burden to demonstrate that its arguments are substantially different from those considered in the rulemaking proceedings such that it would be “unjust” or an “abuse of discretion” for the Rule to apply in the case at issue. *Supra*, 284 NLRB at 1574. In the case of each of the classifications herein where the Petitioner raises an assertion that there is a lack of community of interest with the other employees in the unit, I find that there are no extraordinary circumstances raised which would warrant a deviation from the Rule.²⁰

Each of the ten case managers are assigned to a nursing floor, where they have a desk.²¹ They are required to be RNs and are paid the same rate of pay as the staff RNs.²² Each morning, the case managers get the reports on the patients. Throughout the day, they meet with the patients, the patients’ families, the nursing staff and the physicians. The case manager’s primary function is to develop a discharge plan for each patient. Thus, they discuss with the patient and families what type of support is needed at home and what is available there; what other options are available if the patient’s home is not suitable to meet the patient’s needs;

²⁰ Although the Rulemaking found RN units to be appropriate, it left the issue of the placement in an RN unit to case-by-case adjudication. 54 Fed. Reg. 16344 (1989). See, Salem Hospital, 333 NLRB No. 71 (March 9, 2001). The Rulemaking does not, per se, preclude an analysis of community of interest factors in determining unit placement. Salem Hospital, *supra*.

²¹ Some case managers are only responsible for one department. With smaller departments, however, one case manager may be assigned the responsibility for two departments.

²² The record does not reflect the exact wage rates for any of the classifications discussed herein.

what type of care the physicians recommend; and clarification of the kind of treatment that will be needed upon discharge.

As previously described, under the Rule, RNs will not be excluded from a unit of RNs in an acute care hospital operation based on an assertion that the RNs in question lack a community of interest with the other RNs in the proposed unit, absent extraordinary circumstances. The case managers herein are RNs, performing duties requiring an RN license related to patient care, and work at the acute care hospital facility. Under these circumstances, the Rule requires their inclusion in the proposed RN unit.²³

Moreover, in Salem Hospital, supra, the Board recently addressed the issue of case managers with regard to units of RNs. In that case, the Board explained that the determining factor in whether discharge planners, or case managers, should be included in a unit of RNs is whether an RN license is a qualification for the position. The Board stated that when an Employer requires that the case managers possess an RN license, as it does in the instant case, the case managers are usually included in a unit of RNs. In addition, the case managers herein regularly consult with the staff RNs, the physicians, the patients and the families of patients, and spend most of their time in patient areas. In a similar factual situation, the Board held that RNs working as discharge planners shared a sufficient community of interest with the staff RNs to appropriately include them in an RN unit. Pocono Medical Center, supra. Accordingly, based on the above and the record as a whole, I shall include the case managers in the RN unit herein.

The clinical specialist position was created only a few years ago. As with the case managers, the nine clinical specialists must be RNs. They work with the staff, the patients and

²³ The Board will exclude RNs from an RN unit at an acute care hospital where RN licensing is not a job requirement for the position being performed, since the lack of a licensing requirement demonstrates that the RN education and training is not necessary to perform the job functions. See, Charter Hospital, 313 NLRB 951, 954 (1994); Pocono Medical Center, 305 NLRB 398 (1991); Ralph K. Davies Medical Center, 256 NLRB 1113, 1117 (1981).

the patients' families to identify the educational needs of the staff and patients. The clinical specialists function as "advanced practice" nurses, dealing with difficult diagnoses. The clinical specialists receive a higher rate of pay than the staff RNs. In difficult cases, they assist with the discharge planning. Two of the clinical specialists work regularly in the critical care department. Some of the clinical specialists work in a specific area, such as obstetrics, neurology, orthopedics, oncology, and other departments. The clinical specialists meet regularly with the staff on the nursing units as well as with the patients. They also assist in the orientation of new employees on the nursing units.

With regard to the placement of the clinical specialists, I can find no justification for an assertion that this classification should not be included in the petitioned-for unit. The clinical specialists are RNs, assigned to the nursing units, performing clinical as well as educational services for the patients and the staff and are required to possess an RN license for the position they hold. As stated above, the Rule does not contemplate an argument relating to community of interest as a justification for excluding individuals in a unit classification appropriate under the Rule, absent extraordinary circumstances.²⁴ Inasmuch as the unit sought by the Petitioner, and in accordance with the Rule, is one comprised of all RNs, the clinical specialists should be included. Accordingly, based on the above and the record as a whole, I shall include the clinical specialists in the RN unit.

The Employer also has two patient educators assigned to the care management department whom the Petitioner asserts lack a community of interest with the RNs in the unit and therefore should be excluded. The patient educators are required to be RNs and to possess an RN license. They work directly with patients on the nursing units. As noted above, the patient educators work with individual patients to identify, assess and plan the patient's care both in the hospital and when the patient returns home.

²⁴ Extraordinary circumstances exist, as discussed above, with respect to the placement of RNs in RN units where RN licensing is not a job requirement.

As with the clinical specialists, I find no evidence to justify the exclusion of the patient educators from the petitioned-for unit of RNs. The patient educators work on the nursing units alongside the staff RNs, deal directly with patients and are responsible for patient care. The Rule requires that, absent extraordinary circumstances, all RNs should be included in a unit together, and there has been no evidence produced herein to show extraordinary circumstances with regard to the patient educators. Accordingly, based on the above and the record as a whole, I shall include the patient educators in the RN unit.

Charge Nurses

The Petitioner herein asserts that approximately 40 RNs should be excluded from the petitioned-for unit because, as charge nurses, they possess supervisory authority within the meaning of Section 2(11) of the Act. In February 2001, the Employer eliminated a position for RNs titled “team leader”. Since that time, all RNs, according to their job description, have the responsibility of acting as a charge nurse when assigned. Of the approximately 300 staff RNs, between 225 and 250 of them have been assigned the duty of acting as a charge nurse from time to time, while about 40 of the staff RNs are alleged to perform the duties of charge nurse on a fairly regular basis.²⁵

When acting as charge nurse, there is no evidence that the RN has any authority to hire, transfer, suspend, lay off, recall, promote, discharge, responsibly direct, reward or evaluate

²⁵ Petitioner’s evidence in this regard was somewhat vague. There was testimony by non-RNs and one RN regarding their observations as to which RNs have acted as charge nurse in the departments where they work, during the shifts that they are at the hospital. However, this testimony was not specific and not conclusive regarding the 40 alleged supervisors. Likewise, the only evidence produced even to identify the names of the alleged supervisors was based on informal observations by a nursing clerk, who occasionally leaves her assigned floor and goes to other units. There was no specific testimonial evidence and no documentary evidence produced to identify which RNs act as charge nurse, and how often this is done by each one. There is evidence, however, which indicates that many of the RNs are assigned to be the charge nurse on occasion.

other employees²⁶, or to effectively recommend such actions. The Petitioner asserts that, when acting as charge nurse, the RNs have the authority to discipline, grant time off, assign and handle employee complaints. There is a clinical manager assigned to every unit²⁷, and that manager is available by pager if needed during the hours when the manager is not physically present.²⁸ There is also a house manager, who has overall responsibility for the Employer's operations, on duty at all times in the hospital.

To meet the statutory definition of a supervisor, an individual needs to possess only one of the specified criteria listed in Section 2(11) of the Act, or the authority to effectively recommend such action, so long as the performance of that function is not routine but requires the use of independent judgment. NLRB v. Kentucky River Community Care, Inc., ___ U.S. ___, 2001 WL 567713 (May 29, 2001); Providence Hospital, 320 NLRB 717 (1996), enfd. 121 F.3d 548 (9th Cir. 1997); Nymed, Inc. d/b/a Ten Broeck Commons, 320 NLRB 806, 809 (1996). This test has been traditionally used for supervisory status of all employees, and is also used to determine the supervisory status of health care professionals. It is recognized that an individual who exercises some "supervisory authority" in only a routine, clerical or perfunctory manner should not be found to be a supervisor since the exercise of such authority occurs without the use of any significant discretion. See, Kentucky River Community Care, Inc., supra; Bowne of Houston, Inc., 280 NLRB 1222, 1223 (1986); Quadrex Environmental Co., 308 NLRB 101, 102 (1992). The Board has long held that the party contending that an individual

²⁶ The Petitioner asserts that the team leaders had the responsibility of evaluating employees. However, there is no longer a position of team leader. The evidence suggests that, presently, the clinical managers have the responsibility of evaluating the employees. Inasmuch as there was no evidence produced to indicate that the RNs acting as charge nurse have any role in preparing evaluations, I find this assertion to be unfounded.

²⁷ The parties stipulated, and I find, that the clinical managers are supervisors within the meaning of Section 2(11) of the Act inasmuch as they have the authority, inter alia, to discipline employees.

²⁸ There are about 15 clinical managers in the hospital. Many of them are responsible for only one unit, but some are responsible for two smaller units.

possesses supervisory status has the burden of proving it. Kentucky River Community Care, Inc., supra; The Ohio Masonic Home, 295 NLRB 390, 393 (1989); Bowne of Houston, Inc., supra.

With regard to discipline, the only evidence presented that charge nurses have the authority to issue discipline was testimony by another RN and one unit clerk, who both stated a conclusion that they believed that charge nurses had such authority. The only specific example of such authority was a description of a team leader²⁹ speaking to an employee about the employee's attitude. To the contrary, the director of nursing testified that the charge nurses do not have the authority to issue discipline, or even to recommend it. While charge nurses might have some authority to report potential disciplinary problems to the clinical managers or the house supervisor, the record does not reflect that the charge nurse has any further authority to recommend discipline. The Board has found that when nurses report conduct without recommending discipline, such actions are not indicative of supervisory authority. Nymed, Inc. d/b/a Ten Broeck Commons, supra, at 812; Passavant Health Center, 284 NLRB 887, 889 (1987). Thus, there is insufficient evidence to confer supervisory status on the charge nurses based on the assertion that they have the authority to issue discipline.

With regard to the authority to grant time off, the Petitioner asserts that the charge nurses can allow employees to go home if the census is low. However, the record reflects that this decision is based on a formula which must be adhered to by the charge nurse; there must be a certain number of staff employees on the unit in proportion to the number of occupied beds. There is no record evidence that the charge nurse exercises any discretion or independent judgment in this regard. Any other requests to take time off must be approved by the clinical manager. Thus, I find there is insufficient evidence that the charge nurses possess supervisory authority to grant time off to employees.

²⁹ As described previously, the Employer no longer has a classification of team leader.

The Petitioner also asserts that the charge nurses possess supervisory authority because they assign work. The charge nurse counts how many beds are occupied and divides the staff, i.e., the LPNs, nursing aides, and so forth, among the patients on the unit. The record does not reflect that any independent judgment is used in making these assignments. Rather, it appears to be done by a formula to evenly distribute the patients among the staff. The Board has held that work assignments made to equalize employees' work on a rotational or otherwise rational basis are routine assignments. Providence Hospital, supra, at 727; The Ohio Masonic Home, supra at 395. Moreover, the Board has held that the authority to adjust work schedules in the event of an emergency or call off, to request that an employee work overtime, or to reschedule or postpone breaks, does not support a finding that a nurse possesses supervisory authority. Illinois Veteran's Home at Anna, L.P., 323 NLRB 890, 891 (1997); Rest Haven Living Center, Inc. d/b/a Rest Haven Nursing Home, 322 NLRB 210 (1996); Providence Hospital, supra, at 733.

The United States Supreme Court recently held that when an employee directs work based on orders or regulations issued by the employer, the degree of judgment may be circumscribed to such an extent that it falls below the statutory threshold for a finding of supervisory status. Kentucky River Community Care, Inc., supra, at 4. While there is no assertion by the Petitioner nor any record evidence herein that the charge nurses responsibly direct the work of others, the same analysis regarding the use of independent judgment can be applied to the assignment of work. In the instant case, the evidence reflects that the charge nurses only assign work based on a mathematical formula provided by the Employer. Such limited authority of the charge nurse to assign work on the unit does not require the use of independent judgment and, accordingly, does not establish the possession of supervisory authority within the meaning of the Act.

The Petitioner also asserts that the charge nurses have the authority to adjust grievances. The only example of this authority was a description by an RN that, if one of the

staff on the unit has too much work and cannot answer all of the call lights, that employee can tell the charge nurse, who might then instruct other staff to help the individual. As stated above, such reassignment of work is not an indication of supervisory authority within the meaning of the Act.

Moreover, as described above, it is alleged that while about 40 of the RNs act as charge nurses on a regular basis, almost all of the RNs in the petitioned-for unit are assigned to be a charge nurse at various times. A finding that the charge nurses are statutory supervisors based on their duties described above would effectively mean that all nurses who perform these functions would be deemed to be supervisors, an anomalous and impractical result which is not required by the Act. Statutory supervisory authority is not shown by the limited authority of an RN on one day to “supervise” coequal RNs, some of whom on another day may “supervise” their equals, including the charge nurse. Providence Hospital, supra, at 733; General Dynamics Corporation, 213 NLRB 851, 859 (1974).

Thus, based on the above and the record as a whole, I find that the RNs who also act as charge nurses are not supervisors within the meaning of the Act.

In sum, the Petitioner desires to represent an appropriate unit consisting of all RNs employed by the Employer at its 705 Garfield Avenue and 800 Garfield Avenue locations. Based on the above and the record as a whole, I shall include in this unit the RN case managers, clinical specialists and patient educators in the care management department, and all staff RNs who perform duties as charge nurses, and I shall exclude all RNs working in the five locations of the HHC department and the clinical managers.

COMBINED UNIT

Home Health Care Department

As described previously, the home health care department contains, in addition to RNs, several other classifications of employees. These include 3 LPNs, 13 nursing aides, 7 nursing clerks, one PT assistant, one volunteer service coordinator and one secretary. Both the Petitioner and the Employer concur that these classifications might appropriately be included in the petitioned-for unit, either as technical employees or as nonprofessional employees, if the employees were located at the main hospital. However, these classifications are part of the HHC department, which is located at facilities away from the main hospital.³⁰ The Employer, contrary to the Petitioner, would include these employees in the unit, asserting that their department is functionally integrated with the rest of the hospital operation. The Petitioner, on the other hand, asserts that the HHC department functions as a separate operation and need not be included in the unit which is requested by the Petitioner.

In my discussion of the RNs in the HHC department, I have already described in detail the manner in which this department operates and functions. As with the RNs, the HHC employees have little if any contact or interchange with the employees at the main hospital, except for occasionally filling in an extra shift there. There is separate supervision as well as separate work locations. The employees work a different schedule and are not required to wear uniforms.

As previously found with regard to the RNs in the HHC department, I find that the Employer has failed to prove that the HHC department is so functionally integrated with the acute care hospital operation that the employees in the HHC department must be included in the petitioned-for unit. The combined unit does not include the HHC employees because such

³⁰ As previously described, these locations are at Division Street, Parkersburg; St. Mary's; Grantsville; Harrisville; and Elizabeth, ranging from 3.5 miles to about 30 miles away from the main hospital.

employees perform non-acute care functions of the Employer and are not a part of the acute care hospital campus. Accordingly, I shall exclude the employees assigned to the HHC department, including LPNs, nursing aides, nursing clerks, PT assistant, volunteer service coordinator and secretary, from the petitioned-for combined unit.

Physical Therapy Department

The Employer, contrary to the Petitioner, would include four employees who work at the Employer's PT out-patient clinic, located about four miles from the main hospital on Dudley Avenue in Parkersburg.³¹ These employees include one PT aide, two PT assistants and one secretary. The two PT assistants rotate weekly with PT assistants who are based in the main hospital on a regular schedule between assignments at the in-patient clinic at the main hospital and the out-patient clinic at the Dudley Avenue location. The PT aide and the secretary are always assigned to the Dudley Avenue location.

Until about 18 months ago, the entire PT department, including the out-patient PT services, was located at the main hospital complex. Because of overcrowding, the Employer leased the facility at Dudley Avenue and moved the out-patient PT services there. The four PT department employees assigned there report to the same supervision located at the main hospital as the rest of the PT department employees. They are on the same wage scales and perform the same job duties. Aside from the location of their work, the only difference in the work of the PT employees at the main hospital and at the Dudley Avenue location is that the hospital staff provides PT services to in-patients and the Dudley Avenue staff provides PT services to out-patients.

³¹ The PT assistants and PT aides who work at the main hospital at the Employer's in-patient PT clinic are undisputedly included in the petitioned-for unit, either as technical employees or nonprofessional employees. Inasmuch as this is a combined unit, I need not decide whether any particular classification of employees deemed to be included in the unit should be considered technical employees, skilled maintenance employees or non-professional employees, so long as the employee classification at issue would be in one of those groups.

The PT assistants are required to be graduates of an approved licensed PT assistant program with a two year Associate's degree. The Employer prefers one to two years of experience, and they must be licensed as a PT assistant by the State of West Virginia. The PT assistants provide PT with the patients, carrying out the plans developed for the patient by the physical therapists and the physicians. As stated previously, these two PT assistants and the PT assistants based in the main hospital building rotate weekly between assignments at the main hospital and at the Dudley Avenue facility.

The PT aide is required to have a high school diploma or equivalent. The Employer prefers two months of hospital experience and three months of on-the-job training. There is no licensing or examination requirement for this position. The PT aide assists the PT assistant in providing PT services to the patients. In addition to physically helping the PT assistants with the patients, the aide cleans the equipment, disposes of used supplies and transports patients, when required. The PT aide is permanently assigned to work only at the Dudley Avenue location. The department secretary at the Dudley Avenue location performs normal hospital clerical duties, such as answering telephones, filing, typing, and so forth.

In the PT department, I find that the Dudley Avenue location is a part of the campus of the acute care hospital operation with regard to the employees in the PT department.³² The PT department employees who work at the Dudley Avenue location are functionally integrated with the rest of the PT department which is located in the main hospital. Until recently, the out-patient PT services were located inside the main hospital; they were moved to the present location only because of a lack of space at the main hospital. In this regard, I note that the four

³² Inasmuch as I have included the PT assistants, PT aide and PT department secretary based at the Dudley Avenue location in the combined unit, I have expanded the scope of the Employer's acute care hospital campus to include the PT department employees at the Dudley Building, located at 2014 Dudley Avenue. However, the record does not reflect if there are any other employees of the Employer located in this building, and, if there are others, whether or not they are included in the combined unit. Neither party has raised an issue regarding any employees located at the Dudley Building, other than the PT department employees. Accordingly, my finding herein is limited to including only the PT department employees based at the Dudley Building in the combined unit.

employees at issue all report to the same supervision and management as the PT department employees located at the hospital. Their day-to-day terms and conditions of employment are controlled by management and supervision at the main hospital, not at the Dudley Avenue facility. PT assistants and aides have the same job duties in the department, regardless of the location to which they are assigned. Significantly, I note that the PT assistants spend an equal amount of time working at both the main hospital and at the Dudley Avenue facility, thus clearly demonstrating their community of interest with the unit employees at the main hospital location. In sum, I find that the PT department employees who work in the Dudley Avenue location are merely an extension of the PT department located in the main hospital.

Under these circumstances, I find that the PT department location at Dudley Avenue is a part of the campus of the acute care hospital operation, having been moved there only because of space considerations, and, therefore, the PT employees located at the Dudley Avenue location should be included in the petitioned-for unit. Accordingly, based on the above and the record as a whole, I shall include the two PT assistants, the one PT aide and the secretary located at the Dudley Avenue location in the unit found to be appropriate herein.

Guest Relations Department

The Employer, contrary to the Petitioner, would include one community health and education paramedic (herein “CH & E paramedic”) and one secretary, both in the guest relations department, in the petitioned-for unit. The Petitioner asserts that these two employees, because of the location of their work and because of the duties of the CH & E paramedic, do not share a community of interest sufficient to require their inclusion in the combined unit.³³ The Petitioner has requested the inclusion of the ambulance services department, where other paramedics are assigned, and secretaries in other departments, in the

³³ The Petitioner did not address the guest relations department employees in its brief.

petitioned-for unit. Thus, the parties concur that paramedics and secretaries³⁴ working at the main hospital campus should be included in the petitioned-for unit as either technical employees or nonprofessional employees.

Contrary to the position taken by the Petitioner, the issue herein does not relate strictly to whether or not there is a community of interest between the guest relations department employees and the rest of the employees in the proposed unit. As discussed previously, community of interest is not a primary consideration for inclusion of a classification in a unit delineated by the Rule, absent evidence of extraordinary circumstances. Rather, the issue is whether or not the employees at issue hold positions in the petitioned-for unit encompassed by the Rule.

The guest relations department is located in the “marketing” building located on Birch Street in Parkersburg, about five miles from the main hospital complex.³⁵ The department secretary works at that location and, presumably, has little or no occasion to go to the main hospital as part of his or her regular job duties. The CH & E paramedic performs educational classes for both the general public and for employees. In this regard, he teaches classes such as CPR in the Employer’s facilities as well as at health fairs and other such events in the community. The CH & E paramedic must possess public speaking and public relations skills in addition to the required technical skills. His time is rather evenly divided between educational programs for employees at the Employer’s facilities and those in the community.

The CH & E paramedic is required to have D.O.T. national registration as a certified paramedic, and also to be certified as a paramedic by the West Virginia Department of Health. The Employer also prefers at least three years of clinical experience as a paramedic. Further, the CH & E paramedic must be certified as a CPR instructor, and be certified as an advanced

³⁴ The petition requests the exclusion of business office clericals, however.

³⁵ The record does not reflect what other employees, if any, are in the guest relations department, or work at this location in the marketing building.

life support provider by the American Heart Association.³⁶ The CH & E paramedic must also take other classes and receive certifications which are unspecified, in order to enhance health promotions. Both the secretary and the CH & E paramedic report to the director of guest and community services.

As noted previously, I have found that the Birch Street facility is not encompassed within the Parkersburg acute care hospital complex. In these circumstances, it is incumbent on the Employer to prove that the functions of the employees located in the guest relations department at the Birch Street location are so integrated with the acute care hospital operation that they must be included in the proposed combined unit. I have previously determined that the scope of the units should not be expanded to include the employees who work in the HHC department. These same considerations are present with respect to the Birch Street facility. In this respect, for the reasons set forth below, I find that the scope of the petitioned-for combined unit should not be expanded to include the Birch Street location.

Thus, while the CH & E paramedic does spend some of his time at the hospital, it is not in the capacity of a working paramedic, but rather as an educator. His work appears to be a combination of educational and public relations duties, rather than the technical duties of the other paramedics. The CH & E paramedic reports to different supervision and is in a different department from the other paramedics. Moreover, he is not directly involved in patient care, as are the other paramedics. In sum, the position of CH & E paramedic has little functional integration with the employees in the petitioned-for combined unit who are located at the main hospital. In addition, there is no evidence in the record that the work performed by employees located at the Birch Street location has anything to do with patient care or the operation of an acute care hospital.

³⁶ The record does not reflect whether these requirements are the same for all paramedics.

Consequently, I find, the duties of the two employees at issue in the guest relations department are not functionally related to the operation of an acute care hospital nor to patient care, and thus, that the Birch Street location is not a part of the Employer's acute care hospital operation campus. Accordingly, based on the above and the record as a whole, I shall exclude the CH & E paramedic and the secretary in the guest relations department from the unit found to be appropriate herein.

Medical Records Department

The Employer, contrary to the Petitioner, asserts that approximately 50 employees in the medical records department must be included in the unit found to be appropriate herein. These include 26 medical records transcriptionists, 11 health information analysts, seven coding analysts, four scanning technicians, one patient information coordinator and one secretary. The Petitioner, on the other hand, asserts that these classifications in the medical records department must be excluded as business office clericals.³⁷ The medical records department is located in the administrative support building, which has the same address as the main hospital, but is across the street and is connected to the original hospital by an enclosed bridge. All of the medical records department employees, except for some of the transcriptionists, work in that building. The director of the medical records department is Cindy Kern.

The medical transcriptionists type notes dictated into a Dictaphone machine by the medical staff. Six of these transcriptionists work in the administrative support building; the other 20 transcriptionists work out of their homes. All of the transcriptionists, regardless of their location, perform the same job duties, and work with equipment provided for them by the Employer. The physicians and other medical staff dictate information regarding a patient's

³⁷ Under the Rule, business office clerical employees constitute a discrete unit in acute care hospitals, while clericals who are not considered to be business office clericals are included in the unit of nonprofessional employees.

surgery or care, pathology and radiology reports, discharge information, and so forth. The transcriptionists receive these dictations through a telephone line and type them into a computer. The supervisor for the transcriptionists is Sandra Williams.³⁸ The requirements for this position include at least a high school degree, typing and word processing skills, either college courses in medical terminology and/or prior experience as a medical transcriptionist.

The 11 health information analysts work in the main hospital building on the third floor. Their job involves reviewing hard copy medical records to ascertain that all of the information, signatures and so forth are properly in the documents. They also handle requests from the public to obtain their medical records as well as requests from physicians for patient's hospital records. They also maintain and update a death register for the Employer. The health information analysts are supervised by Linda Baker.³⁹ The requirements for the position of health information analyst include a high school diploma, at least one year of experience in a health related field, completion of a medical terminology course, and successful completion of an accuracy test administered by the Employer.

The seven coding analysts also work on the third floor of the main hospital. Their work primarily involves reviewing patient records and entering the codes utilized in the Employer's computer system. The coding analysts sometimes abstract the coded information for statistical studies or for billing purposes. They have some contact, usually by telephone, with the physicians and the clinical staff when they must verify information on patient's charts. The coding analysts are supervised by Kim Marcinko.⁴⁰ The qualifications for a coding analyst are a

³⁸ The parties stipulated, and I find, that Cindy Kern and Sandra Williams are supervisors within the meaning of Section 2(11) of the Act inasmuch as they have the authority, inter alia, to discipline employees.

³⁹ The parties stipulated, and I find, that Linda Baker is a supervisor within the meaning of Section 2(11) of the Act inasmuch as she has the authority, inter alia, to discipline employees.

⁴⁰ The parties stipulated, and I find, that Kim Marcinko is a supervisor within the meaning of Section 2(11) of the Act inasmuch as she has the authority, inter alia, to discipline employees.

two year degree in the medical records field, and either possession of certain certifications or eligibility for these certifications. Coding experience is also preferred.

The medical records department also has four scanning technicians. These technicians break down the medical records and scan the information for electronic storage. After a patient is discharged, the scanners receive the hard copy of notes and data from the physicians and the nursing units, and scan the information into the Employer's optical disc system. They are supervised by Linda Baker.⁴¹ To qualify to be hired as a scanning technician, the individual must have a high school diploma, one year of experience in a health field and one year of experience with data entry or computers, and be able to pass a test of data entry and number skills.

There is one patient information coordinator in the medical records department. This individual works on the third floor of the main hospital. The job of the patient information coordinator is to provide medical information which is requested from outside the Employer's facility. These requests come primarily from insurance companies, but also can come from individuals, from outside agencies, from lawyers and from physician's offices. These requests might come by telephone, by mail or in person. The coordinator is supervised by Linda Baker. In order to qualify as a patient information coordinator, the individual must have completed a medical terminology course, be proficient in filing, photocopying and word processing, possess knowledge of the laws and regulations regarding the release of medical information, and have at least two years of experience in the medical records field.

There is also one secretary in the medical records department. The secretary answers telephones, compiles certain statistical information, distributes mail, coordinates schedules and so forth. She is supervised by the director of the medical records department, Cindy Kern. The secretary is required to have a high school diploma, and an associate degree in secretarial

⁴¹ The record does not identify where in the Employer's facility the scanners are located.

science is preferred. In addition, the secretary must have three years of hospital secretarial experience, have completed a course in medical terminology and possess typing and computer skills.

The Board has addressed the issue of the placement of medical records department employees on a case-by-case basis. The factor which the Board weighs most heavily in making a decision about the placement of medical records department employees in a service and maintenance unit rather than in a business office clerical unit is whether the work they perform deals with patient care and treatment rather than billing and other financial matters. See, e.g., Duke University, 226 NLRB 470,471 (1976). In the instant case, the employees who work in the medical records department have no contact with the business office employees, and their work involves the processing and storage of patient care records. Under these circumstances, I find that the medical records employees should not be excluded as business office clericals from the combined unit sought herein.⁴² Accordingly, based on the above and the record as a whole, I shall include the medical transcriptionists⁴³, health information analysts, coding analysts, scanning technicians, patient information coordinator and medical records secretary in the combined unit. See also, Rhode Island Hospital, 313 NLRB 343, 362 (1993); William W. Backus Hospital, 220 NLRB 414, 415 (1975); Valley Hospital, LTD., 220 NLRB 1339,1343 (1975); St. Catherine's Hospital of the Dominican Sisters of Kenosha, Wisconsin, Inc., 217 NLRB 787, 789, fn. 20 (1975).⁴⁴

⁴² In Levine Hospital of Hayward, Inc., 219 NLRB 327(1975), the issue decided by the Board was whether the medical records employees should be included in one of two existing units, one of business office clerical employees and one of service and maintenance employees, or whether they should be a separate unit. In that case, the Board stated that the medical records employees should not be a separate unit and, they "...share a very close community of interest with the employees in the existing service and maintenance unit and, if they desire representation, should properly be included in that unit." Supra, at 328. It is noted that both Duke University and Levine Hospital were decided prior to the Rule.

⁴³ All of the medical records transcriptionists, including those who work at home, are included in the combined unit.

⁴⁴ In its brief, the Petitioner argues that the medical records employees lack close, continual contact with the technical and service and maintenance employees, and that they work in areas separate from patient

Care Management Department

The Employer, contrary to the Petitioner, would include one trauma registrar, one care management analyst, two certification trainers and two secretaries in the proposed combined unit. The Petitioner, on the other hand, asserts that these employees from the care management services department do not share a community of interest with the other employees in the unit and therefore should be excluded. The care management department, under the direction of Cindy Carpenter, is responsible for patient education, case management, staff education, utilization review and performance improvement.

The trauma registrar, Michelle Williams, has an office on the second floor of the hospital. Her job involves collecting data from various departments for the hospital trauma registry. She deals with employees in all departments of the Employer's operations. The trauma registrar is responsible for submitting data to the state for every trauma patient. She collects this data from medical records and enters it into a computer. Williams reports to the director of the department, Cindy Carpenter. The qualifications to be hired as a trauma registrar are to have graduated from an accredited program in health information technology, successful completion of the Accredited Record Technician examination (ART), two years of experience in trauma registry or medical records, computer skills and knowledge of medical terminology.

The care management analyst assists in quality studies for the Employer. Her office is on the second floor of the hospital and she also reports to the department director, Cindy Carpenter. Her job duties involve collecting and assembling data to be used and reviewed by

care environments, thereby attempting to justify their exclusion from the proposed combined unit as business office clericals. I find this argument unpersuasive. Aside from the transcribers who work at home, there was no evidence in the record that the rest of the medical records employees do not have contact with employees in the proposed unit. There is, however, evidence that these employees have no contact with the business office clericals at the hospital. Moreover, as discussed above, their work is clearly related to patient care and treatment, and has no relationship to the business office. Thus, their work is more similar to that of office clerical employees, who are included in the petitioned-for unit.

in-house committees and for quality studies. In the course of her duties, she prepares graphs, charts, reports and so forth,. The care management analyst also develops software to be used for the collection of data. As with the trauma registrar, the care management analyst deals with all departments in the Employer's operation to collect data. To be hired as a care management analyst, a high school diploma is required, an Associate's degree is preferred, and two years of experience in a health care field is necessary. In addition, the individual must have certain computer skills, knowledge of medical terminology and must pass a data entry test.

The certification trainer must be either a nurse, a paramedic or an emergency medical technician (EMT). The trainers' office is on the second floor of the main hospital and they report to the director of medical services.⁴⁵ The trainers are responsible for developing and coordinating educational programs for the staff. In this regard, the trainers plan, review, implement and evaluate training programs. The trainers also work as liaisons with various agencies in the community. In addition, the trainers are responsible for the care and maintenance of some of the audiovisual equipment. The qualifications for the certification trainer position are to have at least 18 months of formal education in a health related field, to have three years of teaching experience and competency in adult education, to hold a current state license in a health related field and current certification by various organizations as an instructor.

There are two department secretaries in care management services. Their job duties are the same as those of other secretaries throughout the Employer's facility; i.e., they answer telephones, type correspondence, file, arrange schedules, and so forth.

As stated previously, the Petitioner contends that the above-described employees in the care management services department should be excluded because they do not share a

⁴⁵ The record does not reflect the name of the individual who holds this position.

community of interest with the other employees in the unit.⁴⁶ However, I have already noted that community of interest considerations, absent evidence of extraordinary circumstances, cannot serve to exclude classifications from the units encompassed by the Rule if those classifications are, in fact, within a unit delineated by the Rule. The record affirmatively establishes that the employees at issue all have positions that would be considered either nonprofessional or technical, and consequently would be encompassed in a combined unit such as the petitioned-for unit herein under the Rule. There is no evidence demonstrating that unusual circumstances exist justifying the exclusion of these classifications from the unit sought. Accordingly, based on the above and the record as a whole, I shall include the classifications of trauma registrar, care management analyst, certification trainer and secretary in the care management department in the combined unit found appropriate herein.

Central Registration Department

In the central registration department, the Employer, contrary to the Petitioner, would include seven patient registrar/schedulers (herein “schedulers”) in the combined unit.⁴⁷ The Petitioner, on the other hand, asserts that these seven schedulers should not be included because they do not share a community of interest with the other employees in the proposed unit.

The schedulers work in the administrative support building under the supervision of Bonita Totten, the central registration supervisor. Totten also is the supervisor for the

⁴⁶ The Petitioner does not proffer any other reason for excluding these employees from the petitioned-for unit aside from the community of interest argument.

⁴⁷ Originally, the Petitioner also asserted that 23 registration clerks in this department should be excluded. However, toward the end of the hearing, the parties stipulated that the 23 registration clerks are appropriately included in the combined unit.

registration clerks, who are included in the petitioned-for unit.⁴⁸ Their job duties involve contacting patients and/or their families by telephone to schedule and coordinate appointments for tests or procedures at the hospital. They provide information to the patients about the tests or procedures and also obtain some pre-registration information from them. The information obtained by the schedulers during these telephone conversations is then entered into the patient's records, as well as into the Employer's scheduling records. They often communicate with physician's offices and hospital staff, especially nursing clerks and department secretaries, in coordinating these appointments. Virtually all of their work is done by telephone. The requirements to be hired as a scheduler are a high school diploma or equivalent, six months of experience in patient registration and scheduling preferred, knowledge of medical terminology and the successful completion of a data entry examination.

While the Petitioner asserts that these seven schedulers do not share a community of interest with other employees in the unit, I find this argument not to be particularly relevant in the circumstances presented. As described previously, community of interest is not a primary consideration in deciding whether or not a classification is appropriately included in an otherwise appropriate unit under the Rule, absent extraordinary circumstances.

In the instant case, the schedulers perform essentially the same function as the registration clerks, albeit by telephone rather than in person. The type of work that they perform is related to patient care.⁴⁹ The qualifications for the position of registration clerk and scheduler are essentially the same, and both groups report to the same supervisor. The schedulers have

⁴⁸ The parties stipulated, and I find, that Bonita Totten is a supervisor within the meaning of Section 2(11) of the Act inasmuch as she has the authority, *inter alia*, to hire and fire employees.

⁴⁹ In the job description for the scheduler position, there are duties listed which involve financial information and counseling. However, there is no evidence in the record that the schedulers actually perform these duties, nor, if they do, how much of their work is involved with financial matters. Moreover, there is no assertion by the Petitioner that the schedulers should be excluded for any reason other than a lack of community of interest with other employees in the proposed unit. Under these circumstances, I cannot find the schedulers to be excluded as business office clericals.

regular telephone contact with patients and with hospital staff who are included in the unit. Under these circumstances, and noting that the parties are in agreement that the registration clerks are appropriately included in the unit, I find that the schedulers are hospital clericals and should be included in the nonprofessional unit. See, e.g. William W. Backus Hospital, supra, 220 NLRB at 416. Accordingly, based on the above and the record as a whole, I shall include the seven patient registrar/schedulers in the combined unit herein.

Material Management Department

As previously described, the Employer, contrary to the Petitioner, would include three buyers in the material management department in the combined unit. The Petitioner asserts that the buyers should be excluded because they do not share a community of interest with the other employees in the combined unit.⁵⁰

The three buyers are located in the basement of the hospital, next to the storeroom employees.⁵¹ They are responsible for filling the supply needs of all departments. The buyers, within certain parameters, identify the supplies needed, obtain bids from vendors and submit recommendations for purchases to the director of their department, to whom they report.⁵² They have no independent authority to pledge the Employer's credit. In the performance of their job duties, the buyers regularly interact with employees of all departments regarding the departments' supply needs. They are also responsible for monitoring inventory supplies. To be hired as a buyer, an individual must be a high school graduate, and have at least one year of

⁵⁰ The Petitioner does not assert any other basis for excluding the buyers from the proposed combined unit and did not address this issue in its brief.

⁵¹ The storeroom employees are part of the proposed combined unit.

⁵² There is presently no individual in the position of director of material management. The record does not reflect who the acting supervisor is for the department.

computer experience and purchasing experience. The individual must also pass a data entry examination.

In the instant case, I find that there is insufficient evidence to exclude the buyers from the combined unit. As discussed previously, an argument that a certain classification does not share a community of interest with other employees in a unit is not a particularly relevant consideration under the Rule. The buyers work in the same area and report to the same supervisor as the storeroom employees, who are part of the petitioned-for unit. The buyers also have regular contact with employees in every department, including clerks and secretaries, in the course of their job duties. The Board has found buyers in acute care hospitals with similar job duties to be included in a nonprofessional unit. Rhode Island Hospital, supra, 313 NLRB at 357-358; The Baptist Memorial Hospital, 225 NLRB 1165, 1170 (1975). Accordingly, based on the above and the record as a whole, I shall include the three buyers in the material management department in the combined unit sought herein.

Information Systems Department

The Employer, contrary to the Petitioner, would include several classifications of employees who work in the information systems department in the combined unit. The Petitioner asserts that the employees in these classifications do not share a community of interest with the rest of the employees in the combined unit and therefore must be excluded.⁵³ As discussed previously, a lack of community of interest with other employees in a unit is not a particularly relevant justification for excluding a group of employees under the Rule. So long as the classification is otherwise encompassed in one of the units set forth in the Rule, the group will be included in that unit, absent extraordinary circumstances. The classifications are: six telecommunications operators, two telecommunications technicians, five application analysts,

⁵³ The Petitioner did not address the information systems department employees at issue in its brief.

seven computer operations technicians, one PC network analyst, two telecommunications specialists and one secretary. The director of the information systems department is Tonja Prine.

The six telecommunications operators are located on the third floor of the hospital. The telecommunications operators primary duty is to operate the "PBX" console, or switchboard, for the entire hospital. They report to the assistant director for technical services, Linda Terrell.⁵⁴ In addition to receiving and directing calls from the outside, the telecommunications operators also perform the overhead paging for staff inside the hospital, monitor the alarm systems for fire, security, emergencies and so forth⁵⁵, and respond to the "Lifeline" communications system.⁵⁶ They also keep a log to document the calls and services provided. Occasionally, particularly at night, the telecommunications operators might assist other departments, performing such tasks as removing staples from documents for the scanning technicians. To be hired as a telecommunications operator, the individual must have a high school diploma or the equivalent, and have experience with the operation of electronic switchboard equipment. A knowledge of medical terminology is preferred.

The Board has consistently found switchboard operators in hospital settings similar to the instant one to be excluded from a nonprofessional unit because they are more appropriately included in a unit of business office clericals. The Baptist Memorial Hospital, supra, 225 NLRB at 1169; The Jewish Hospital Association of Cincinnati d/b/a Jewish Hospital of Cincinnati, 223 NLRB 614, 622 (1976); Medical Arts Hospital of Houston, Inc., 221 NLRB 1017, 1018 (1975);

⁵⁴ The parties stipulated, and I find, that Linda Terrell is a supervisor within the meaning of Section 2(11) of the Act inasmuch as she has the authority, inter alia, to hire and fire employees.

⁵⁵ There is no assertion by either party herein that the telecommunications operators are guards within the meaning of the Act.

⁵⁶ Lifeline is a system whereby individuals who have a system in their home can send a signal to the telecommunications operator if they have an emergency. The telecommunications operator can then communicate with that individual to ascertain what the emergency is, and respond with the appropriate aid.

Southwestern Community Hospital, 219 NLRB 351, 353 (1975); St. Francis Hospital, 219 NLRB 963, 964 (1975); Mendenco Hospitals of Louisiana, Inc. d/b/a St. Claude General Hospital, 219 NLRB 991 (1975). In all of these cases, the Board found that switchboard operators "...are essentially engaged in mainly business functions..." Southwestern Community Hospital, supra. In the instant case, the telecommunications operators perform the same duties and functions as switchboard operators as the individuals in the cases cited above. Accordingly, based on the above and the record as a whole, I find that the telecommunications operators are business office clericals and I shall exclude them from the combined unit sought herein.

There are two telecommunications technicians in the information systems department. They report to an area in the basement of the main hospital and report to the department director, Tonja Prine. They are issued work orders for the telephones in the facility, and it is their responsibility to move, change, add or delete various telephones and other communication devices. The technicians install cable and maintain the Employer's information telephone switch, which is called "Mytel".⁵⁷ They also test telephones and maintain records of the system, as well as perform preventive maintenance and diagnostic testing on the equipment. In the course of their duties, they travel to every department of the hospital.

To be hired as a telecommunications technician, the individual must be a high school graduate and have taken some courses in telecommunications or have technical background. The Employer also requires three years of experience in voice and data communication and networking, and prefers experience in fiber optic cabling. The individual must understand PBX systems and voice processing features and functions. They must be able to work with minimum supervision and have a current driver's license and vehicle.

In the instant case, I find that the telecommunications technicians should be included in the combined unit, which includes skilled maintenance employees. The technicians at issue

⁵⁷ There is no further description of the Mytel switch in the record.

herein have duties and qualification requirements similar to those in Presbyterian University Hospital d/b/a University of Pittsburgh Medical Center, 313 NLRB 1341, 1343 (1994) and The Toledo Hospital, 312 NLRB 652, 654 (1993). In those cases, the Board found that, based on the skills, education, and contact with other maintenance operation employees, the telecommunications technicians were properly included in a skilled maintenance unit. Accordingly, based on the above and the record as a whole, I find that the telecommunications technicians should be included in the combined unit sought herein.

There are five application analysts in the information systems department. They are responsible for the maintenance and training on the Medi-tech system, which is the Employer's internal software program. The application analysts troubleshoot day-to-day problems, enhance the system, test new versions of the system and educate employees in the use of the system. In the course of their work, they travel to every department in the facility, although they are based in the Newberry Building, at 1023 Garfield Avenue, about 300 yards from the original hospital.⁵⁸ They are supervised by network manager Linda Brothers.⁵⁹ In order to be hired as an application analyst, the individual must have an Associate's degree in either computer science, business or nursing, although a Bachelor's degree is preferred. The individual must be proficient with Microsoft software, and have good typing skills.

There are seven computer operations technicians in the information systems department. These technicians are based on the third floor of the main hospital and are supervised by the network manager, Linda Brothers. They do much of the general computer work for the Employer; i.e., they monitor hardware issues, troubleshoot problems with software, prepare backup data and print reports. They deal with problems such as keyboard problems

⁵⁸ The Newberry Building is not included in the scope of the petitioned-for unit. However, for the reasons discussed herein, I shall include the Newberry Building at 1023 Garfield Avenue as a part of the Employer's acute care hospital campus.

⁵⁹ The parties stipulated, and I find, that Linda Brothers is a supervisor within the meaning of Section 2(11) of the Act inasmuch as she has the authority, inter alia, to hire and fire employees.

and other hardware issues. They do not work with personal computers, only with the terminals that are used in certain departments. In the course of their job duties, the computer operations technicians travel to many departments throughout the facility. To be hired as a computer operations technician, one must have an Associate's degree in computer science and/or data processing, have experience with troubleshooting peripheral devices, and successfully pass both a calculator and an information systems terminology test.

The Employer has one PC network analyst in the information systems department. The PC network analyst works in the administrative support building and reports to network manager Linda Brothers. The primary job duty is to maintain the PCs (personal computers) located at the Employer's facility. Approximately half of the departments have PCs. In this pursuit, the PC network analyst troubleshoots problems with the hardware and the software, as well as the printers, educates employees in the use of the computers and installs new programs. The PC network analyst travels throughout the facility in the course of performing the job duties. The qualifications to be hired as a PC network analyst are an Associate's degree in computer science or information systems, or a minimum of two years of experience with computers, familiarity with Microsoft and anti-virus software, and knowledge of Microsoft Windows NT, preferably certified.

While the Petitioner asserts that the application analysts, computer operations technicians and PC network analyst do not share a community of interest with the other employees in the unit, it does not specify the reasons for taking this position. It is clear that the employees in all three of these classifications are required to have technical skills and perform maintenance and repair of the Employer's various computer systems, and, absent extraordinary circumstances, would be included in a unit of either technical employees or skilled maintenance employees.⁶⁰ Although the application analysts are based in the Newberry Building, they spend

⁶⁰ The Board has not yet decided on the placement of computer technicians in acute care hospitals. In Rhode Island Hospital, 313 NLRB 343, 352 (1993), a computer technician holding an Associate degree

most of their time throughout the Employer's hospital campus, dealing with the Employer's software system, as do the computer operations technicians and the PC network analyst. The employees in all three of these classifications interact with employees included in the petitioned-for unit on a regular basis. Under these circumstances, I find that the application analysts, computer operations technicians and PC network analyst are either skilled maintenance or technical employees, and thus should appropriately be included in the combined unit.

With regard to the Newberry Building, where the application analysts are based, the Petitioner does not include this site as part of the scope of the petitioned-for combined unit. The Newberry Building is only about 300 yards from the main hospital. Although they are based at the Newberry Building, the application analysts interact regularly with employees in the petitioned-for unit throughout the Employer's acute care hospital campus in the course of their job duties. In addition, while based in the Newberry Building, the application analysts report to network manager Linda Brothers, who also supervises employees who are based in the main hospital building and the administrative support building, locations which are included in the petitioned-for unit. Thus, I am including the application analysts in the combined unit. Under these circumstances, I find that the Newberry Building is included in the scope of the petitioned-for combined unit herein.⁶¹

and responsible for the installation and repair of microcomputers, the upgrading of computers and the maintenance of an inventory of parts was permitted to vote subject to challenge in both a skilled maintenance and a technical unit. A similar result was reached in The Toledo Hospital, 312 NLRB 652 (1993), in which the Board held that employees with similar qualifications who were responsible for microcomputer, mainframe and similar equipment were permitted to vote subject to challenge in a skilled maintenance unit.

In the instant case, the three classifications at issue, application analysts, computer operations technicians and PC network analyst, have job duties and qualifications similar to those described above. Inasmuch as this is a combined unit of skilled maintenance employees, technical employees and nonprofessional employees, it is not necessary to decide in which of the three groups these classifications would fall inasmuch as the three classifications clearly would be in one of the groups of the combined unit.

⁶¹ Inasmuch as I have included the application analysts in the combined unit, I have expanded the scope of the Employer's acute care hospital campus to include the application analysts at the Newberry Building, located at 1023 Garfield Avenue. However, the record does not reflect if there are any other

Accordingly, based on the above and the record as a whole, I find that the five application analysts, seven computer operations technicians and one PC network analyst should be included in the combined unit found to be appropriate herein.

There are two telecommunications specialists in the information systems department. They work on the third floor of the hospital and report to the assistant director of the department. The telecommunications specialists are technicians who are responsible to maintain the lifeline system, the paging system, the voicemail and call accounting systems, the PBX console, alarm systems and fax machines throughout the Employer's operations. In the course of their work, the telecommunications specialists travel throughout the Employer's facilities. To be qualified as a telecommunications specialist, a high school education is required, with switchboard and computer experience.

As described previously, the Petitioner contends that the telecommunications specialist position should be excluded from the combined unit because those individuals do not share a community of interest with the other employees in the unit. However, as previously discussed, this argument does not justify their exclusion under the Rule. The job duties and qualifications for a telecommunications specialist indicate that this position fits into the categories included in the proposed unit, either as technical, skilled maintenance or nonprofessional employees. See, e.g. The Toledo Hospital, supra. Accordingly, based on the above and the record as a whole, I find that the telecommunications specialists in the information systems department should be included in the combined unit found to be appropriate herein.

The department secretary performs duties similar to those performed by all hospital clericals. In this respect, the secretary answers telephones, types, orders and maintains supplies, files, and so forth. There is no evidence that indicates that the secretary has any job

employees of the Employer located in this building, and, if there are others, whether or not they are included in the combined unit. Neither party has raised an issue regarding any employees located at the Newberry Building, other than the application analysts. Accordingly, my finding herein is limited to including only the application analysts located at the Newberry Building in the combined unit.

duties or qualifications that would differentiate the position from any of the secretaries who are agreed to be included in the unit as nonprofessionals. Accordingly, based on the above and the record as a whole, I find that the secretary in the information systems department should be included in the combined unit sought herein.

Accordingly, I find that, with regard to the applications analysts located there, the Newberry Building, at 1023 Garfield Avenue, is a part of the campus of the Employer's acute care hospital operation. Further, I find that some of the employees in the information systems department based in the Newberry Building and at other locations in the acute care hospital campus should be included in the proposed combined unit. In sum, in the information systems department, I shall exclude the six telecommunications operators from the combined unit, and I shall include the two telecommunications technicians, five application analysts, seven computer operations technicians, one PC network analyst, two telecommunications specialists and one secretary in the combined unit sought herein.

Respiratory Therapists

There are ten registered respiratory therapists employed at the Employer's facility in the cardiopulmonary services department. The Employer asserts that these respiratory therapists are technical employees and therefore must be included in the combined unit, while the Petitioner asserts that the respiratory therapists are professional employees and must be excluded from the unit.⁶²

⁶² In its brief at footnote 9, the Employer states that the Petitioner agreed at the hearing that the certified respiratory therapists should be included in the unit. This statement appears to be in error. While the Petitioner agreed that the respiratory technicians were appropriately included in the combined unit, the Petitioner consistently took the position that the respiratory therapists should be excluded because they are professional employees.

The ten respiratory therapists report to Ray Barber.⁶³ Their offices are located in the basement of the hospital. The respiratory therapists work throughout the hospital providing such treatment and services as ventilator care, life support, aerosol therapy, performing pulmonary tests, and drawing arterial blood gases. They do patient assessments regarding pulmonary functions. In performing these duties, they visit patient rooms and have regular contact with the physicians, RNs, LPNs, x-ray and laboratory employees and so forth. The respiratory therapists follow standardized guidelines for all of the tests and procedures that they perform. They often use hand held computers to enter data into the Employer's Medi-tech system.

To qualify as a registered respiratory therapist, an individual must have an Associate's degree and be registered by the National Board of Respiratory Care.⁶⁴ In order to be registered, the therapist must pass two examinations, one written and one clinical. In addition, the Employer prefers one to two years of experience in the position.

In the rulemaking process, the Board discussed and analyzed a number of factors in relation to units of technical employees.

Technical employees are found in major occupational groups including...respiratory therapy....The evidence presented at the hearings demonstrates that technical employees perform jobs involving the use of independent judgment and specialized training, as opposed to service and maintenance employees who generally perform unskilled tasks and need only a high school education....[T]echnical employees occupy a high-prestige status distinct from other categories of non-professional employees because of the training requirements for their jobs.

Technical employees further are distinguished by the support role they play within the hospital, and by the fact that they work in patient care. Examples of their work include: ...general respiratory care administered by respiratory therapists....

⁶³ The certified respiratory technicians and the cardiopulmonary technicians also report to Barber. Barber's job title is not reflected in the record.

⁶⁴ Two of the ten therapists at issue possess four year degrees; the other eight therapists have two year degrees.

[T]he evidence shows that all health care technical employees have significant additional education and/or training beyond high school, including: community college associate degree programs ...programs at accredited schools of technology, and, in some fields, a full 4-year college degree.

Further, the evidence indicates that most hospital technical employees are either certified (usually by passing a national examination), licensed, or required to register with the appropriate state authority....

284 NLRB at 1553-1554.

On the other hand, professional employees are defined in Section 2(12)(a) of the Act as employees who are engaged in work which is predominantly intellectual and varied in character as opposed to routine; involving the consistent exercise of discretion and judgment; of such a character that the output produced or the results accomplished cannot be standardized in relation to a given period of time; and requiring knowledge of an advanced type customarily acquired by a prolonged course of specialized study in an institution of higher learning or a hospital.

The Board has consistently placed registered respiratory therapists performing virtually the same functions as the disputed respiratory therapists in technical units. Children's Hospital of Pittsburgh, 222 NLRB 588, 593 (1976); St. Elizabeth's Hospital of Boston, 220 NLRB 325, 327 (1975); William W. Backus Hospital, supra, 220 NLRB at 417; Trinity Memorial Hospital, 219 NLRB 216 (1975); Alexian Brothers Hospital, 219 NLRB 1122, fn. 5 (1975). I find that there is insufficient evidence to find that the respiratory therapists at issue herein possess the criteria of professional employees, as described above.⁶⁵ Accordingly, based on the above and the

⁶⁵ In its brief, the Petitioner cites Group Health Association, Inc., 317 NLRB 238 (1995), in support of its assertion that the registered respiratory therapists are professional employees. The Petitioner states that, based on Section 2(12) of the Act and the above-cited case, the respiratory therapists must be considered professional employees "...because they have to be registered after extensive in-depth education". I find both this contention and the reliance on the above-cited case inapposite and unpersuasive. While Group Health Association, Inc., Id., does discuss the criteria required to be considered a professional employee, it does so in relation to medical technologists, not respiratory therapists. Moreover, in that case, the Board's analysis as to whether or not the medical technologists were professionals was based on the intellectual nature of their duties and the consistent use of independent judgment and discretion, not the amount of education they had obtained. In the situation herein, there is no evidence that the registered respiratory therapists have "extensive" education; the

record as a whole, I find that the ten registered respiratory therapists in the cardiopulmonary services department should be included in the combined unit sought herein.

Laboratory Department Assistant Supervisors

At the hearing, the Petitioner asserted that three assistant supervisors in the laboratory department are supervisors within the meaning of the Act, and therefore must be excluded from the proposed combined unit. The Employer, on the other hand, would include the assistant supervisors in the combined unit as technical employees.⁶⁶ The laboratory department is under the overall direction of Barbara Ann Ward and her assistant director, Barbara Gissy.⁶⁷

The laboratory department employs about 63 employees, divided into five separate divisions. The department has employees on duty 24 hours per day, seven days per week. They work in facilities located at several locations throughout the Employer's campus, including the first and second floors of the Medical Office Building and Room 350 in the hospital. There are seven regular supervisors in the laboratory department, each with a specific area for which they are responsible.⁶⁸ There are three assistant supervisors in the department: Rebecca Bailey, assistant supervisor, chemistry; Mark Pratt, assistant supervisor, hematology; and Darcy Reed, assistant supervisor, afternoon and night shift.

record reflects that two have a four year degree and the other eight respiratory therapists have two year degrees.

⁶⁶ In its brief, the Petitioner did not address the issue of the assistant supervisors in the laboratory department. However, at the hearing, the Petitioner asserted that this classification was a supervisory one within the meaning of the Act. The Petitioner does not assert that there is any alternative justification for excluding the three assistant supervisors other than their alleged supervisory status.

⁶⁷ At the hearing, the parties stipulated, and I find, that Ward and Gissy are supervisors within the meaning of Section 2(11) of the Act inasmuch as they have the authority, inter alia, to hire and fire employees.

⁶⁸ At the hearing, the parties stipulated, and I find, that the seven laboratory department supervisors are supervisors within the meaning of Section 2(11) of the Act inasmuch as they have the authority, inter alia, to hire and fire employees. They include: Susan Dearman, infection control and microbiology; Tena Roush, blood bank; Martha Steinbeck, special chemistry; Debra Wagner, hematology; Kim Warden-Rose, chemistry; Vicky McKaughan, histology; and Bobbi Eshenauer, phlebotomy.

The three assistant supervisors deal primarily with technical issues in the laboratory when the supervisors are not present. There was no evidence regarding what tasks these three assistant supervisors perform in addition to filling in during the absence of the supervisors.⁶⁹ However, there was no evidence presented that the assistant supervisors have the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline other employees, responsibly to direct them or to adjust their grievances, or effectively to recommend such actions. As previously discussed with regard to the charge nurses in the RN unit, the Board has long held that the party contending that an individual possesses supervisory status has the burden of proving it. The Ohio Masonic Home, supra, 295 NLRB at 393; Bowne of Houston, Inc., supra, 220 NLRB at 1223.

With regard to the assistant supervisors in the laboratory department, the Petitioner has failed to prove that these three employees possess any of the indicia of supervisory authority. Accordingly, based on the above and the record as a whole, I find that the three assistant supervisors in the laboratory department have not been proven to be supervisors within the meaning of the Act and, therefore, I shall include them in the combined unit sought herein.

Accordingly, I find the following employees of the Employer constitute units appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Case 6-RC-11952 - Registered Nurses Unit

All full-time and regular part-time registered nurses, including registered nurses in the care management department and registered nurses acting as charge nurses, employed by the Employer at its locations at 705 Garfield Avenue and 800 Garfield Avenue, Parkersburg, West Virginia; excluding registered nurses in the home health care department, clinical managers and guards, other professional employees and supervisors as defined in the Act, and all other employees.

⁶⁹ Inasmuch as the Petitioner did not raise any objection to the inclusion of the assistant supervisors other than their alleged supervisory authority, it can be presumed that if they are not found to be supervisors within the meaning of the Act, the Petitioner would include them in the petitioned-for combined unit as technical employees.

Case 6-RC-11953 – Combined Unit

All full-time and regular part-time technical employees, skilled maintenance employees and nonprofessional employees, including registered respiratory therapists, assistant supervisors in the laboratory department, physical therapy aides, physical therapy assistants and physical therapy department secretaries located at the main hospital and the Dudley Avenue facility, medical records transcriptionists, health information analysts, coding analysts, scanning technicians, patient information coordinator and secretary in the medical records department, trauma registrar, care management analyst, certification trainers and secretaries in the care management department, registration clerks and patient registrars/schedulers in the central registration department, buyers in the material management department, telecommunications technicians, application analysts, computer operations technicians, PC network analyst, telecommunications specialists and secretary in the information systems department employed by the Employer at its locations at 705 Garfield Avenue, 800 Garfield Avenue, 801 Garfield Avenue, 1023 Garfield Avenue, 806 Murdock Avenue and 2014 Dudley Avenue, Parkersburg, West Virginia; excluding LPNs, nursing clerks, nursing aides, physical therapy assistant, volunteer service coordinator and secretary in the home health care department, community health and education paramedic and secretary in the guest relations department, business office clerical employees including telecommunications operators and guards, registered nurses and other professional employees and supervisors as defined in the Act, and all other employees.

DIRECTION OF ELECTIONS

Elections by secret ballot will be conducted by the Regional Director among the employees in the units set forth above at the time and place set forth in the Notices of Election to be issued subsequently, subject to the Board's Rules and Regulations.⁷⁰ Eligible to vote are those employees in the respective units who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period and employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.⁷¹ Those eligible in each unit shall

⁷⁰ Pursuant to Section 103.20 of the Board's Rules and Regulations, official Notices of Election shall be posted by the Employer in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. As soon as the election arrangements are finalized, the Employer will be informed when the Notices must be posted in order to comply with the posting requirement. Failure to post the Election Notices as required shall be grounds for setting aside the elections whenever proper and timely objections are filed. The Board has interpreted Section 103.20(c) as requiring an employer to notify the Regional Office at least five (5) full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice.

⁷¹ In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the elections should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is hereby directed that the election eligibility lists, containing the full names and addresses of all eligible voters in the respective units, must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Elections. The Regional Director shall make the lists available to all

vote whether or not they desire to be represented for collective bargaining by United Steelworkers of America, AFL-CIO, CLC.

Dated at Pittsburgh, Pennsylvania, this 31th day of May 2001.

/s/ Gerald Kobell

Gerald Kobell
Regional Director, Region Six

NATIONAL LABOR RELATIONS BOARD
Room 1501, 1000 Liberty Avenue
Pittsburgh, PA 15222

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401-2575-4200
460-7550-8700
470-1733-0100
470-3300-0000
470-8300-0000
470-8500-0000

parties to the elections. In order to be timely filed, such lists must be received in the Regional Office, Room 1501, 1000 Liberty Avenue, Pittsburgh, PA 15222, on or before June 7, 2001. No extension of time to file these lists may be granted, except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.